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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

PATEL, MITAL B

ART UNIT PAPER NUMBER

3743

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary

Application No.

10/680,848

Applicant(s)

RICH ET AL.

Examiner

Mital B. Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 7, 8, 10, 12, 18 and 19 is/are rejected.
- 7) ☒ Claim(s) 2-6, 9, 11, 13-17 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/10/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 7, 8, 10, 12, 18, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Enzinger (WO00/00246).

3. **As to claim 1**, Enzinger teaches an airway adapter structure comprising a substantially tubular first portion **4** comprising a wall having a first end portion, a second end portion, and a first bore defined therein, and a protrusion operatively coupled to the wall and having a second bore defined therethrough, wherein the protrusion is axially aligned with the first bore; a longitudinally compressible member **6,9** coupled to the protrusion such that a first portion of the compressible member extends beyond an end of the protrusion, wherein the first portion of the compressible member includes a third bore defined therein in communication with the second bore; and a substantially tubular second portion **12** coupled to the first end portion of the tubular first portion.

4. **As to claim 7**, Enzinger teaches an adapter further comprising a sample portion having a fourth bore providing a passage between the second bore and an interior of the second tubular portion and a sample tap structure **13** including a sampling port opening to the fourth bore and extending to an exterior of the airway adapter structure.

5. **As to claim 8**, Enzinger teaches an adapter further comprising a tubular adapter **10** adapted to be assembled with the airway adapter, wherein the tubular adapter comprises a body member having a fourth bore and an axial passage defined therein, wherein the fourth bore extends from a first end portion and terminates at an end wall, and wherein the tubular adapter and the airway adapter are adapted to connect such that the end wall in contacts the compressible member so as to move the compressible member in a compressed state and providing a seal between an end portion of the compressible member and the end wall about a periphery of the axial passage.

6. **As to claim 10**, Enzinger teaches an airway adapter structure comprising a substantially tubular first portion **4** comprising a wall having a first end portion, a second end portion, and a first bore defined therein; a longitudinally compressible member **6,9** disposed within the first bore and having a first end portion operatively coupled to the tubular first portion and a second free end portion opposite the first end portion, wherein compressible member includes a second bore defined therein from the first end portion to the second end portion; and a substantially tubular second portion **12** coupled to the first end portion of the tubular first portion.

7. **As to claim 12**, Enzinger teaches an adapter further comprising a friction fitting element disposed between the first end portion of the compressible member and a wall of the first bore so as to maintain the compressible member in place within the first bore.

8. **As to claim 18**, Enzinger teaches an adapter further comprising a sample portion having a fourth bore providing a passage between the second bore and an interior of the second tubular portion and a sample tap structure **13** including a sampling

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port opening to the fourth bore and extending to an exterior of the airway adapter structure.

9. **As to claim 19**, Enzinger teaches an adapter further comprising a tubular adapter **10** adapted to be assembled with the airway adapter, wherein the tubular adapter comprises a body member having a fourth bore and an axial passage defined therein, wherein the fourth bore extends from a first end portion and terminates at an end wall, and wherein the tubular adapter and the airway adapter are adapted to connect such that the end wall in contacts the compressible member so as to move the compressible member in a compressed state and providing a seal between an end portion of the compressible member and the end wall about a periphery of the axial passage.

Allowable Subject Matter

10. Claims 2-6, 9, 11, 13-17, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mital B. Patel whose telephone number is 571-272-4802. The examiner can normally be reached on Monday-Friday (11:00-7:30).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 571-272-4791. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mital B. Patel
Examiner
Art Unit 3743